

## City of Albuquerque

## P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103 Office of Internal Audit

Martin J. Chavez, Mayor

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Internal Audit Committee City of Albuquerque Albuquerque, New Mexico

Audit: Management of Contract with the Selected Vendor

Citywide 01-126

#### FINAL

#### INTRODUCTION

The Office of Internal Audit (OIA) reviewed the City's two contracts with the Selected Vendor (Vendor). One contract provides a household hazardous waste collection center (Collection Center) along with a materials re-use center for the residents of the City of Albuquerque and Bernalillo County. The amount of the vendor contract for household hazardous waste is \$2.1 million for the six-year period from July 1997 through June 2003. Revenue from the Solid Waste Management Department (SWMD) residential refuse accounts provides the funding for this contract. A portion of each monthly residential refuse account (\$.25 per account) funds the contract. The County of Bernalillo also funds a portion of the program. The City had a previous contract with the Vendor from July 1991 through June 1997.

Some surrounding local governments have their own household hazardous waste disposal programs for their residents. These programs have been developed, in an effort to alleviate environment pollution problems. Statistics generated by the Environmental Protection Agency (EPA) indicate that Americans as a nation create 1.6 million tons of household hazardous waste per year. If the waste is disposed of improperly, water sources and wastewater treatment plants can become contaminated. These are only a couple of examples of the catastrophic scenarios that are possible when hazardous waste is improperly disposed.

Examples of hazardous products that are collected at the City of Albuquerque's collection site, as well as other collection sites around the country, are automotive materials (gasoline, motor oil,

antifreeze, car wax, lead-acid batteries); home improvement materials (paint, varnish, paint thinner); pesticides (weed killer, rat poison, insecticide); and household cleaners (drain opener, oven cleaner, ammonia). Some of the above items are redistributed at the City's reuse center, if the products meet the redistribution criteria. Among other things, the items must have complete labels and the containers must be at least half full.

The City's other contract with the Vendor provides hazardous waste management for waste generated by various City departments, and emergency response services for hazardous waste abandoned in City easements and right-of-ways. This contract is for a two-year period, from February 2000 through February 2002, and may be extended for up to four additional 12-month periods.

This audit and its conclusions are based on information provided through interviews, tests and reviews of current procedures. We completed our fieldwork on January 17, 2002. The current status of the contracts included in our sample was updated as of June 30, 2002. We have based this report on our examination of activities through the completion date of our fieldwork, and it does not reflect events after that date. The audit was conducted in accordance with Government Auditing Standards, except Standard 3.33, which requires an external quality review.

#### **SCOPE**

Our audit did not include an examination of all the functions, transactions and activities related to the City's contract with the Vendor. Our audit testwork was limited to the following areas:

- Verify that costs charged to the City are in compliance with established contract price agreements.
- Review Vendor records as they relate to services provided to the City.
- Determine if overcharges have occurred and consider corrective action.
- Review compliance with applicable rules, regulations, and laws.

#### **FINDINGS**

The following findings concern areas that we believe could be improved by the implementation of the related recommendations

#### 1. EHD SHOULD PAY ONLY FOR SERVICES THAT IT HAS RECEIVED.

The contract states that the City will pay the Vendor up to \$350,000 each year for participants utilizing the household hazardous waste contract. For the last four years, the Vendor has overcharged the City by inflating the numbers of participants in the program in the final month of the fiscal year. Therefore the City has paid for services, which it did not yet receive, and June expenses have been over-stated in Fiscal Years-2001, 2000, 1999 and 1998. The over statements were \$59,990, \$11,480, \$3,150 and \$2,210 respectively. According to the City's Environmental Health Department (EHD) program manager and the Vendor, the City was intentionally overcharged in order to prevent the loss of budgeted funds.

In those 4 years, credits were carried over to the following fiscal years, and were ultimately used. However, Section 30.3.2(a) of the City Purchasing Rules and Regulations states: "No payment shall be authorized for goods, services or construction which: (a) are not received...." Further, the contract with the Vendor states that payments shall be made to the contractor monthly, and on the condition that the contractor has accomplished the services. Advance payment for services is a violation of both the contract and City rules and regulations. The Vendor should charge the City only for goods and services, which it has provided. EHD should only pay for goods and services, which it has received.

#### **RECOMMENDATION**

EHD should discontinue the practice of requesting or accepting advance billings. EHD should comply with the contract terms and City rules and regulations, and pay the Vendor only for the goods and services, which it has received.

#### EXECUTIVE RESPONSE FROM THE EHD

"Concur. EHD will discontinue the practice of estimating participants for the month of June for payment prior to the end of the month."

### 2. <u>EHD SHOULD REVIEW THE HOUSEHOLD HAZARDOUS WASTE PARTICIPANT</u> LISTS TO ENSURE IT IS PAYING ONLY FOR QUALIFIED PARTICIPANTS.

The contract states that the collection center shall be available to residents of the City of Albuquerque and Bernalillo County, in order that they may properly dispose of their household hazardous waste. Although the Vendor affirmed that it only accepts household

hazardous waste from Albuquerque and Bernalillo County residents, some participants provided non-qualified addresses--addresses outside of Bernalillo County.

For the month of December 2001, we were able to identify four participants who were not Bernalillo County residents. This was 1.53% of December's total participants. December is a slow month. Thus the percentage is a conservative rate. The total payments to the vender over the term of the contract were \$1,665,570. The non-qualifying percentage rate of 1.53% translates to an overcharge of \$24,984 over the term of the contract.

The Vendor's collection procedures direct the staff entering participant data to change non-qualifying zip codes to zip codes that qualify for City program participation. Further, the procedures provide a list of allowable zip codes for entry to the participant data bank.

A list of participants, which is generated from the Vendor's data bank, is sent to the City prior to submitting the invoice for participants served. The list provides support for the \$70 fee per participant. The City has over-paid during the term of the contract, if some of the participants are non-Bernalillo County residents.

The City should research to determine which surrounding local governments do not have hazardous waste programs. EHD could remind those governments that they can piggyback on the City contract. This might enable local governments to provide better and lower cost services to their citizens, without having any one government bear the cost of providing services to non-resident participants.

#### RECOMMENDATION

EHD should ensure that it is paying only for Bernalillo County residents. In order to be in compliance with the contract, when the Vendor inadvertently accepts hazardous waste from non-qualified participants, EHD should not authorize payment for them.

In addition, the EHD should request that the Vendor provide a list of zip codes of participants who have dropped off waste, but do not live in the County. This might help in discussions with other local governments. The EHD may be able to contact the other governments, and recommend consideration of a hazardous waste collection program for their citizens, as they do not qualify for the City of Albuquerque services.

The EHD should collect the \$24,984 of estimated overpayments from the Vendor. As an alternative, the Vendor could review the participant lists over the term of the contract, and determine the actual overpayments and refund that amount to the City.

#### EXECUTIVE RESPONSE FROM THE EHD

"Concur, partially. EHD will continue to work with the Vendor to insure that only 'authorized' Albuquerque/Bernalillo County residents participate in the program. Nowhere in the RFP, the Proposal or the Contract is it stated or implied that the Vendor would be responsible for waste brought to the Center by non-residents. The program was established specifically for Albuquerque/Bernalillo County residents; however, a limited number of non-residents have disposed of HHW at the Center and have fraudulently certified that they are in fact residents. The Vendor reviewed all forms for FY2002 and found only thirty (30) 'non resident' users of the program. EHD has met with the Vendor to discuss ways to be more observant of the participant's address prior to accepting the waste and to advise the participant, if not a resident of Albuquerque/Bernalillo County that the program is only for those residents, however EHD has verbally instructed the vendor to accept the HHW from those individuals. It is felt that the cost for accepting 'out of county' waste outweighs the potential risk of not accepting the HHW and having it improperly disposed of in the City or County, as well as the negative message it sends to those that thought they were doing the right thing.

"The EHD has for the past several years assisted other local governments in conducting HHW programs. Since 1997 five other local governments have 'piggy backed' on the present contract between the City of Albuquerque and the Vendor. EHD will continue to remind and encourage local governments that the 'piggy back' approach is available. As staffing is available, EHD will look into other options that might allow for a regional approach to household hazardous waste collection."

#### **AUDITORS COMMENT**

If EHD is approving the Vendor to accept household hazardous waste from participants who do not reside in Bernalillo County, the contract should be amended to reflect the change. Contracts should not be modified by verbal instruction.

Although many collection centers request that participants provide their name, address, and phone number, this information is not required by Federal regulation or New Mexico state statute. EHD should consider adding language to the contract to deal with situations where participants refuse to provide the information.

# 3. EHD SHOULD ENSURE THAT THE VENDOR IS IN COMPLIANCE WITH THE BILLING TERMS IN THE CONTRACTS.

The household hazardous waste contract states that the participant fee for the first 4,000 participants in a year shall be \$70. The participant fee drops to \$45 each after the first 4,000. In FY01, there were 4,194 participants in the program. The Vendor billed the City \$70 for all participants. One hundred and ninety four of the participants should have been billed at the \$45 fee. The over charge on that invoice was \$4,850 [(\$70-45) x 194]. The Vendor has issued a credit to the City for the overcharge.

Also, we reviewed a small sample of invoices for services performed on the hazardous waste management and emergency response contract. Several invoices included services and charges that were not specifically addressed in the contract. Therefore, we were unable to determine if the services and items are allowable. It would appear that the user departments would also be unable to determine if the charges are in compliance with contract terms.

EHD should review the invoices from the Vendor. If EHD finds that the City has been over charged, it should request that the Vendor refund the overpayments. EHD should ensure that the Vendor is complying with the pricing and invoicing terms in the contract. Additionally, it should require that all invoices submitted for payment contain adequate detail, thereby allowing user departments to determine the accuracy of the pricing.

#### RECOMMENDATION

EHD should ensure that the Vendor complies with the contract billing terms. The Vendor should charge prices according to the agreement. Additionally, EHD should require that the Vendor provide adequate detail in the invoices, which it submits for payment.

EHD should review questionable invoices, and collect overpayments it made to the Vendor.

#### EXECUTIVE RESPONSE FROM THE EHD

"Concur. The original contract with the Vendor was supplemented by the Third Supplemental Agreement on March 30, 2001. That supplement was

for extending the contract for FY 2002 as well as adjusting the pricing. It was not the intent to make those new conditions part of the remainder of FY01. The Hazardous Waste Management and Emergency Response contract has historically been an open contract that could be used by all City Departments. The EHD has not had the responsibility or authority to over see the practices of other Departments. When requested, EHD did provide technical assistance to other Departments and has in the past 'rejected' invoices that were in error. See response to Finding No. 4."

# 4. THE CAO SHOULD CONSIDER ASSIGNING RESPONSIBILITY FOR THE HAZARDOUS WASTE & EMERGENCY RESPONSE CONTRACT TO A SPECIFIC DEPARTMENT.

The Chief Administrative Officer (CAO) should consider assigning oversight for the program, and for the management of the Hazardous Waste Management and Emergency Response contract to a specific division or department. No one department or group has overall responsibility for management of the program or the contract. EHD managers are listed as the City contacts for the contract. EHD provides assistance to other City Departments on proper hazardous waste management, including disposal options. However, they do not have authorization or enforcement capabilities with regard to contract usage.

Currently, several City departments are authorized to use the contract. Departments are not required to consult with EHD before requesting services from the Vendor. The Vendor provides a quarterly report of all the activities on the contract by City department users. The program managers at the City have the option to review the expenditure report and the actual invoices with the Vendor at the end of each quarter.

Departments do not always possess the experience or knowledge to deal with the hazardous waste issues. It is possible that departments, having limited knowledge on hazardous waste issues, could request unnecessary or inappropriate services from the Vendor. Because vendors want to sell goods and services, they normally will not advise their customers that the products or services they are requesting are unnecessary or are not included in the contract.

There are some merits to assigning total management responsibility over the program to one department. Some of the advantages include:

- Experienced staff, knowledgeable in the area of hazardous waste management, is available for consultation; the assigned department knows the contract terms and prices.
- Hands-on management is more efficient and effective than quarterly, after-the-fact reports.

Over spending of the contract can be prevented.

Given the importance of public awareness on the issue of hazardous waste, better control and good contract management could be achieved by having an assigned department for the hazardous waste management contract and program.

#### RECOMMENDATION

To achieve better efficiency and effectiveness, the CAO should consider assigning oversight of the hazardous waste management program to a specific group or department.

#### **EXECUTIVE RESPONSE FROM THE CAO**

"The CAO agrees the responsibility for oversight of the hazardous waste management program should be assigned to one department. This will be discussed with the Environmental Health Department who would most likely fill this role."

#### EXECUTIVE RESPONSE FROM EHD

"Concur. With the concurrence of the CAO and with the appropriate level of staffing in place, EHD will provide oversight and assistance to all City Departments in regard to hazardous waste management. When staffing becomes available, EHD will develop a plan to implement this program and will draft an Administrative Instruction defining the program."

# 5. <u>EHD SHOULD REQUIRE THAT THE VENDOR SUBMIT INVOICES WITH CLEAR</u> AND COMPLETE DESCRIPTIONS OF SERVICES.

OIA reviewed a sample of invoices for the Emergency Response and Waste Management contract, as well as an invoice sample for the household hazardous waste contract. We noted that several of the invoices for the Emergency Response contract did not have clear descriptions for the services. Also, we could not find many of the prices on the contract price matrix included as a part of the contract. Some of the invoices for the household hazardous waste contract had missing information. The invoices should indicate the date of the service and should contain a description of the service.

According to EHD, other City departments and the Vendor, every emergency situation

cannot be foreseen, and therefore is not addressed in the contract. However, the Vendor stated that the City requests estimates for services not addressed in the contract. Documentation or notation for estimates and acceptance of estimates and services should be kept on file with the Vendor, along with the invoice and all other documentation related to the workorder.

We reviewed a sample of work order files, which corresponded to the invoices we reviewed. The work order files should contain documentation of service requests, proposals, estimates, acceptances of proposals, and any other information regarding the work. Some of the files we reviewed lacked documentation.

The City employee contacts for the Vendor contracts should remind the Vendor of the City's requirements for complete invoices prior to payment.

#### **RECOMMENDATION**

EHD should ensure that the Vendor submit clear and complete invoices before releasing the invoices for payment.

#### EXECUTIVE RESPONSE FROM THE EHD

"Concur. The EHD will work with the Vendor to insure that invoices are complete and contain all necessary information."

#### 6. EHD SHOULD ENSURE THAT VENDOR INSURANCE COVERAGE IS CURRENT.

The contract states that the contractor shall procure insurance covering all operations under the agreement. The contract further states that the Vendor should maintain current insurance coverage until final payment is made to the City for services covered by the contract. The certificate on file at the City indicated that one of the insurances required was no longer current. After the insurance policy had expired, the Vendor failed to provide a current policy to the City. We were unable to determine whether or not the insurance policy had been renewed. In order to remain in compliance with the contract, the City should ensure that the required insurance coverage is current.

#### RECOMMENDATION

EHD should ensure that all of the Vendor's insurance policies related to the contract with the City remain current throughout the term of the contract. EHD should contact

the Vendor to request current certificates, if proof-of-insurance certificates on file are not current.

#### EXECUTIVE RESPONSE FROM EHD

"Concur. The Vendor has provided the City with current Certificates of Insurance."

# 7. <u>EHD SHOULD REQUEST APPROPRIATIONS FOR THE TOTAL AMOUNT OF ANTICIPATED REVENUES DESIGNATED FOR THE HAZARDOUS WASTE PROGRAM.</u>

The Household Hazardous Waste Program per ordinance is funded through a portion of the refuse collection fees. City Ordinance 9-10-1-10 ROA 1994 requires that the Solid Waste residential monthly billing include "\$.25 for a collection and disposal program for household hazardous wastes which will be operated by the Environmental Health Department." Each year the Budget Office estimates what the revenue will be. The estimated revenue is transferred monthly from the Solid Waste Fund to the Household Hazardous Waste activity. In addition, the County of Bernalillo has agreed to fund \$30,000 per year of the household hazardous waste program as a result of an intergovernmental agreement between the City and the County. This agreement requires that the City "...apply all funds provided by the County to the payment of the City Contractor conducting hazardous waste management."

In each of the last five fiscal years, the amount of the estimated revenues has exceeded the appropriation, as shown in the table below. As a result, all of the money collected for the household hazardous waste program has not been appropriated to the program. Cumulatively, in the last five years, this has amounted to \$163,820 collected and not appropriated for the program.

	FY98	FY99	FY00	FY01	FY02	TOTAL
Revenue from						
SWMD	\$295,000	\$350,000	\$351,000	\$351,000	\$394,820	\$1,741,820
Revenue from						
County	\$30,000*	\$30,000	\$30,000	\$30,000	\$30,000	\$ 150,000
Total Revenue						
Received	\$325,000	\$380,000	\$381,000	\$381,000	\$424,820	\$1,891,820
Total						
Appropriation	\$324,000	\$351,000	\$351,000	\$351,000	\$351,000	\$1,728,000

Revenues Not						
Appropriated	\$1,000	\$29,000	\$30,000	\$30,000	\$ 73,820	\$163,820

<sup>\*</sup> Unable to determine where amount was posted.

The appropriation of \$351,000 is enough to keep the collection center open three days a week. With a larger appropriation, the collection center could extend its days of operation. Since the full amount of the revenues generated is not appropriated, they become a part of the general fund balance to be spent on other programs. The Environmental Health Department should request an appropriation for the full amount of the anticipated revenue generated for the household hazardous waste program. The revenues are estimated in January for the subsequent year. However, neither Budget, Solid Waste nor Environmental Health reconciles the actual amount received from the \$.25 per household per month, to the estimated amount that is transferred to the Household Hazardous Waste activity. As a result, revenues related to the ordinance could be even higher.

#### **RECOMMENDATION**

The EHD should request an appropriation for the full amount of the anticipated revenue generated for the household hazardous waste program.

Also, the EHD should request the information necessary at year-end to reconcile the actual revenues to the estimated, and initiate a journal voucher to transfer the necessary excess to the general fund as restricted fund balance to be used in the household hazardous program.

#### EXECUTIVE RESPONSE FROM EHD

"Concur. EHD will work with DFAS and SWMD to collect, appropriate and reserve all funds intended for the HHW program."

#### CONCLUSION

By implementing these recommendations, EHD, which is involved in the management and administration of the contracts, will better fulfill its responsibilities.

We appreciate the assistance and cooperation of the EHD management and staff during the audit.

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## AUDIT REPORT

OF

## MANAGEMENT OF CONTRACT WITH THE SELECTED VENDOR

CITYWIDE

REPORT NO. 01-126



CITY OF ALBUQUERQUE OFFICE OF INTERNAL AUDIT